

Item 1008-D

x 96-2: H.R.P. 1518

96TH CONGRESS }
2d Session }

HOUSE OF REPRESENTATIVES {

REPORT
No. 96-1518

ORIGINAL

OPPOSING THE GRANTING OF PERMANENT RESIDENCE
IN THE UNITED STATES TO CERTAIN ALIENS

DECEMBER 2, 1980.—Committed to the Committee of the Whole House and
ordered to be printed

Ms. HOLTZMAN, from the Committee on the Judiciary
submitted the following

REPORT

COMPLETED

[To accompany H. Res. 871]

The Committee on the Judiciary, to whom was referred the resolution (H. Res. 871), opposing the granting of permanent residence in the United States to certain aliens, having considered the same, report favorably thereon without amendment and recommend that the resolution do pass.

PURPOSE OF THE RESOLUTION

The purpose of the resolution is to express congressional disapproval of the granting of status of permanent residence in the United States to one alien in whose case the Attorney General has submitted a report to Congress pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended.

GENERAL INFORMATION

Section 244(a)(1) of the Immigration and Nationality Act, as amended by the act of October 24, 1962, has authorized the Attorney General, in his discretion, to suspend deportation and adjust the status to that of an alien lawfully admitted for permanent residence in the case of an alien who applies to the Attorney General for suspension of deportation. This category includes aliens deportable as public charges, as persons who have obtained visas by fraud or misrepresentation, smugglers of aliens, mental defectives, aliens who entered the United States without documentation, and aliens who failed to maintain their nonimmigrant status, or otherwise violated the conditions of their admissions. To be eligible for suspension of deportation within this category the alien must meet three basic requirements: (1) continuous physical presence in the United States for a period not less than 7 years immediately preceding the date of application, (2) during all of such period the alien was and is a person of good moral

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character, and (3) the alien is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien, or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

The requirement of continuous physical presence in the United States is not applicable to an alien who has (a) served for a minimum period of 24 months in active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions and (b) the time of his enlistment or induction was in the United States.

The following provisions of the law (sec. 244(c), (d), (e), and (f) of the Immigration and Nationality Act) explain the procedures under which the Attorney General submits these cases to Congress, the legislative action required, and the subsequent creation of a record of admission for permanent residence if the cases are not disapproved by Congress:

SEC. 244 * * *

(c) (1) Upon application by any alien who is found by the Attorney General to meet the requirements of subsection (a) of this section the Attorney General may in his discretion suspend deportation of such alien. If the deportation of any alien is suspended under the provisions of this subsection, a complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such suspension. Such reports shall be submitted on the first day of each calendar month in which Congress is in session.

(2) In the case of an alien specified in paragraph (1) of subsection (a) of this section—

if during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the suspension of such deportation, the Attorney General shall thereupon deport such alien or authorize the alien's voluntary departure at his own expense under the order of deportation in the manner provided by law. If, within the time above specified, neither the Senate nor the House of Representatives shall pass such a resolution, the Attorney General shall cancel deportation proceedings.

(d) Upon the cancellation of deportation in the case of any alien under this section, the Attorney General shall record the alien's lawful admission for permanent residence as of the date the cancellation of deportation of such alien is made, and unless the alien is entitled to a special immigrant classification under section 101(a)(27)(A), or is an immediate relative within the meaning of section 201(b) the Secretary of State shall reduce by one the number of nonpreference immigrant visas authorized to be issued under section 203(a)(8) for the fiscal year then current.

(e) The Attorney General may, in his discretion, permit any alien under deportation proceedings, other than an alien within the provisions of paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 241(a) (and also any alien within the purview of such paragraphs if he is also within the provisions of paragraph (2) of subsection (a) of this section) to depart voluntarily from the United States at his own expense in lieu of deportation of such alien shall establish to the satisfaction of the Attorney General that he is, and has been, a person of good moral character for at least 5 years immediately preceding his application for voluntary departure under this subsection.

(f) No provision of this section shall be applicable to an alien who (1) entered the United States as a crewman subsequent to June 30, 1964; or (2) was admitted to the United States pursuant to section 101(a)(15)(J) or has acquired such status after admission to the United States; or (3) is a native of any country contiguous to the United States or of any adjacent island named in section 101(b)(5); *Provided*, That the Attorney General may in his discretion agree to the granting of suspension of deportation to an alien specified in clause (2) of this subsection if such alien establishes to the satisfaction of the Attorney General that he is ineligible to obtain a nonquota immigrant visa.

Between February 1, 1979 and December 1, 1979, 259 applications were submitted to Congress; 251 applications have been approved and referred to the jurisdiction of the Department of Justice. One application has been disapproved and is included in the instant resolution. Seven cases were returned to the Immigration and Naturalization Service for further information.

The Committee is satisfied that the 251 applications which have been approved meet the general requirements of the law, and that the one application should not receive Congressional approval.

BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but no specific oversight is contemplated in this instance.

COMMITTEE RECOMMENDATION

Upon consideration of all the facts in this case, the committee is of the opinion that House Resolution 817 should be enacted and accordingly recommends that the bill do pass.